

UNITED STATES DISTRICT COURT**DISTRICT OF NEVADA**

SIERRA GOLIA-HUFFMAN,

Plaintiff

v.

SMITH'S FOOD & DRUG CENTERS,
INC.,

Defendant

Case No.: 2:21-cv-01260-APG-EJY

**Findings of Fact and Conclusions of
Law**

I conducted a bench trial on November 4, 2024 and April 24-25, 2025. Below are my findings and conclusions, as required under Federal Rule of Civil Procedure 52(a).

I. FINDINGS OF FACT

1. On May 10, 2020, Sierra Golia-Huffman went to the Smith's grocery store located at 7130 North Durango Drive, Las Vegas, Nevada to buy flowers for her mother. She slipped and fell in the store.

2. Golia-Huffman was in the store for approximately six minutes. On her way to the floral case, Golia-Huffman walked over the area where she later fell, without incident. After selecting a bouquet of flowers, she turned and walked away from the floral case and fell approximately three to four feet from the case. She landed on her knees, immediately stood up unassisted, and walked to the self-checkout area to buy the flowers.

3. It was Mother's Day, which is a busy day for flower sales. To guard against spills in the floral department, Smith's placed floor mats in front of the two flower cases. The store also placed two caution cones in the area, one at each end of the

1 department, and assigned an extra clerk to the floral department that day.

2 4. In addition to the floor mats in front of the floral cases, Smith's provided
3 plastic sleeves for customers to place bouquets of flowers in. Golia-Huffman did not use
4 a plastic sleeve.

5 5. There are two angles of video from surveillance cameras closest to where
6 Golia-Huffman fell, but neither shows the condition of the floor before or during her fall.

7 6. Smith's representative Nathan Prell testified that all employees are
8 required to immediately clean water on the floor if they see it. As he described it, "if you
9 see it, you own it." This is mirrored by Smith's Safety Requirements for the Floral
10 Department, which state: "any spills [are to be] cleaned up as soon as they are found" and
11 "[s]ales floors are to be neat and clean at all times." Exh. 73 at 3-4. Smith's policy also
12 required inspections of the entire store every half-hour.

13 7. Smith's employee Jeremy Greaney allegedly inspected the store between
14 approximately 9:45 and 10:01 a.m. Exhs. 67, 68. He wrote in the Sweep/Floor Inspection
15 Statement that he saw "lose pedals (sic) and drops of water" in the area where Golia-
16 Huffman fell. Exh. 67. Golia-Huffman fell at 10:23 a.m.

17 8. Prell testified that no employee cleaned the floor between the time
18 Greaney identified the water and petals in the area and Golia-Huffman fell. The
19 surveillance video confirms that. Prell testified that Smith's anticipated an increased risk
20 of slips in the floral area that day because it was Mother's Day when flower purchases are
21 very heavy. Yet there was no evidence of any Smith's employee sweeping, mopping, or
22 cleaning the area of the fall in the hour before the fall.

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1 9. One of Golia-Huffman's experts, Frank Perez, testified that the industry
2 standard for slip resistance value for the floor in the location of the fall is 0.50. ECF No.
3 133 at 162. Smith's offered no competing evidence. When Perez visited the store, he
4 tested and recorded the slipperiness of the wet floor to be 0.07. That means the wet floor
5 was below the industry standard, very slippery, and "really dangerous." *Id.* at 162-163.
6 Smith's offered no expert testimony to rebut that opinion.

7 10. All medical professionals agreed that Golia-Huffman's knees were injured
8 in the fall and that she required surgery to her right knee. There was no dispute that all
9 her knee treatments were appropriate, medically necessary, and directly related to the fall
10 injury. There was no dispute as to the costs of her knee treatments.

11 11. All medical professionals agreed that Golia-Huffman's lower back was
12 injured in the fall. The injuries included lumbar strain, new or aggravation of L4-5
13 herniation, and aggravation of preexisting lumbar spondylosis at L3-4 and L4-5. Golia-
14 Huffman initially underwent non-surgical treatments including physical therapy, an
15 epidural steroid injection, and two sets of bilateral medial branch blocks. She also tried
16 bilateral L3 and L4 radiofrequency ablations.

17 12. These treatments did not alleviate her pain, so her first doctor, Dr. Jason
18 Garber, recommended she undergo an L4-5 disk replacement surgery. Golia-Huffman
19 sought a second opinion from Dr. George Elkanich, who eventually recommended an L4-
20 5 fusion surgery. Golia-Huffman chose to undergo the fusion, which took place in
21 December 2021.

22 13. Smith's contends that Golia-Huffman chose surgery too soon and that she
23 should have undergone additional epidural injections. Even if surgery was needed,

1 Smith's contends, a disc decompression would have been the medically reasonable
2 surgery to perform. Smith's medical expert, Dr. Vladimir Sinkov, opined that
3 decompression surgery would be a more conservative treatment than fusion because if it
4 did not work, a fusion could be performed later, while a fusion is almost always
5 irreversible.

6 14. The testifying physicians (Drs. Elkanich, Muir, and Sinkov) do not
7 contend that the others' recommended spinal procedure would constitute malpractice or
8 fall below the standard of care. Rather, each testified that their own recommendations
9 were more appropriate for Golia-Huffman's injuries and pain.

10 15. Given Golia-Huffman's age and activity level, it is highly likely she will
11 need another spine surgery in the future to address adjacent level breakdown. The
12 alternatives include implantation of a spinal stimulator or a fusion of the adjacent level.¹
13 The cost of those procedures is estimated between \$400,000 and \$600,000 depending on
14 the type of procedure. Golia-Huffman's expert, Dr. Muir, testified that the spinal
15 stimulator would give Golia-Huffman nearly identical relief as the fusion (because she
16 would not feel the pain), is less invasive and risky than fusion, and would cost less
17 (approximately \$400,000 over the course of her life).

18 16. Golia-Huffman, her sister, and her former life partner all testified as to the
19 pain and suffering the fall caused her. Golia-Huffman's sister and former boyfriend
20 testified that it took approximately two years for Golia-Huffman to return to her pre-fall
21

22 ¹ Dr. Elkanich testified that a revision to the current fusion (to remove or adjust the
23 screws) might be justified to address Golia-Huffman's pain at the time he last saw her in
December 2022. ECF No. 133 at 229-31. But that would not address later adjacent level
breakdown. *See id.* at 237-38.

1 self. Among other impacts, Golia-Huffman could not play with her young son as much
 2 as usual, play softball (she previously played several times per week), or do other
 3 physical activities with her family, or work as much as before. Her injuries also impacted
 4 her relationship with her life partner, leading to the eventual separation.

5 **II. CONCLUSIONS OF LAW**

6 **Liability**

7 Golia-Huffman's remaining causes of action assert Negligence, Negligence -
 8 Premises Liability, and Respondent Superior/Vicarious Liability. A federal court
 9 exercising diversity jurisdiction applies the substantive law of the forum state. *Erie R. Co.*
 10 v. *Tompkins*, 304 U.S. 64, 78 (1938). To state a claim of negligence under Nevada law,
 11 the plaintiff must demonstrate "(1) that the defendant had a duty to exercise due care with
 12 respect to the plaintiff; (2) that the defendant breached this duty; (3) that the breach was
 13 both the actual and proximate cause of the plaintiff's injury; and (4) that the plaintiff was
 14 damaged." *Joynt v. California Hotel & Casino*, 835 P.2d 799, 801 (Nev. 1992). A
 15 Nevada "business owes its patrons a duty to keep the premises in a reasonably safe
 16 condition for use." *Sprague v. Lucky Stores, Inc.*, 849 P.2d 320, 322 (Nev. 1993).

17 If a patron slips because of a foreign substance on the floor, the business will be
 18 liable if the owner or its agent either caused the substance to be on the floor or "had
 19 actual or constructive notice of the condition and failed to remedy it." *Id.* at 322-23. A
 20 business owner "has a duty to an invitee to inspect the premises to discover dangerous
 21 conditions not known to him and to take reasonable precautions to protect the invitee
 22 from dangers which are foreseeable . . ." *Twardowski v. Westward Ho Motels, Inc.*, 476
 23 P.2d 946, 947-48 (Nev. 1970) (quotation omitted). In addition, Smith's policy required

1 inspections every half-hour, floors to be clean at all times, and spills cleaned up as soon
2 as they are found. Exh. 73 at 3-4.

3 Smith's employee Greaney saw "lose pedals (sic) and drops of water" in the area
4 where Golia-Huffman fell shortly before the fall. Exh. 67. He had a duty under Smith's
5 policy to clean it up immediately. There is no evidence he did so. His statement gives
6 Smith's actual notice of the hazardous condition.

7 However, the video does not show Greaney conducting an inspection during the
8 time he claims he did. Thus, he may have lied in his statement and not actually inspected
9 the area of the fall, which would violate Smith's policy and render Smith's liable. Or, he
10 may have inspected the area but was off-camera. If so, then, again, Smith's has actual
11 notice of a hazard and did not clean it up. Either way, Smith's is liable.

12 The surveillance video shows no Smith's employee inspecting or cleaning the
13 area of the fall for at least an hour before the fall. Rose petals are seen in the front of the
14 floral department (away from where Golia-Huffman fell) and no one cleaned that up for
15 at least an hour. To the contrary, a Smith's employee is seen wiping petals off a table and
16 onto the floor, adding to the hazard, without cleaning it up during the video. While this
17 was not in the immediate area of the fall, when combined with the fact that no Smith's
18 employee inspected or cleaned the area of the fall for at least an hour before the fall, it
19 strongly suggests that Smith's failed in its own policy and Nevada law to inspect the
20 premises to discover and address hazardous conditions. *Twardowski*, 476 P.2d at 947-48.

21 Smith's proposes at least two alternative causes of the fall. First, it contends that
22 water could have dripped from the bouquet in Golia-Huffman's left hand and fallen
23 directly into her path. But based on the video, it seems implausible that, while she was

1 turning and taking a step or two, enough water would have dripped from the bouquet
2 directly in front of her in time for her to step in it and fall from it. Second, Smith's
3 contends the flip-flops Golia-Huffman was wearing could have become wet while she
4 stood on the mat in front of the flowers, such that her wet footwear slipped when she
5 stepped onto the hard floor. If so, then Smith's should have been aware of the wet
6 condition of the mat, given that Mother's Day is one of the busiest days for the floral
7 department and water normally drips from the bouquet bins (hence the need for the mats).
8 And the unrebuted testimony of Golia-Huffman's expert Perez is that the hard floor was
9 more slippery than industry standard. Even under this proposed explanation, the fault
10 still lies with Smith's.

11 Golia-Huffman has proven by a preponderance of the evidence that Smith's is
12 liable for her fall in the store.

13 Damages

14 There is no doubt that Golia-Huffman's fall actually and proximately caused
15 injuries to her knee and spine. Years before, Golia-Huffman had broken bones and
16 suffered minor back injuries, but she had fully recovered from those by the time of her
17 fall. Before the fall, she was very physically active, playing softball several times each
18 week and playing with her son and family. That changed after the fall.

19 The testimony of Golia-Huffman's treating physicians and experts confirm that
20 her knee surgery and all of her back treatments (including physical therapy, injections,
21 and fusion surgery) were actually and proximately caused by the fall and were medically
22 necessary. She is entitled to an award of \$721,727.18 for those procedures.

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1 It is highly likely Golia-Huffman will need another spine surgery in the future to
2 address adjacent level breakdown. This future procedure is actually and proximately
3 caused by the fall and is medically necessary. The alternatives include implantation of a
4 spinal stimulator or a fusion of adjacent levels. Because the spinal stimulator would give
5 Golia-Huffman nearly identical relief as the fusion, is less invasive and risky than fusion,
6 and would cost less, that is the appropriate measure of damages for a future medical
7 procedure. Golia-Huffman is entitled to an award of \$400,000 for a future medical
8 procedure.

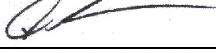
9 Golia-Huffman suffered pain, emotional damages, and loss of enjoyment of life as
10 an actual and proximate result of the fall. She is entitled to awards for past pain and
11 suffering in the amount of \$200,000 and future pain and suffering in the amount of
12 \$50,000.

13 **III. CONCLUSION**

14 I HEREBY ORDER the clerk of the court to enter judgment in favor of plaintiff
15 Sierra Golia-Huffman against defendant Smith's Food & Drug Centers, Inc. on her
16 claims of Negligence, Negligence - Premises Liability, and Respondent
17 Superior/Vicarious Liability in the total amount of \$1,371,727.18.

18 I FURTHER ORDER the clerk of the court to close this case.

19 DATED this 13th day of May, 2025.

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21 
22 ANDREW P. GORDON
23 CHIEF UNITED STATES DISTRICT JUDGE